

IN THE SUPREME COURT OF TEXAS

No. 97-0848

SPOHN HEALTH SYSTEM CORPORATION D/B/A SPOHN HOSPITAL, PETITIONER

v.

HERLINDA SILVA, RESPONDENT

ON APPLICATION FOR WRIT OF ERROR TO THE
COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

Per Curiam Opinion

JUSTICE HANKINSON not sitting.

We deny Spohn's application for writ of error because Spohn failed to present conclusive summary judgment proof that the attack in question occurred off its property. Since this was the only ground Spohn presented, summary judgment was improper on this record. However, we note the court of appeals held:

The very proximity of the curb upon which [Silva] was stabbed to [Spohn's] property raises a factual issue as to [Spohn's] power to control and expel third-party wrongdoers.

___ S.W.2d ___, at ___. We disapprove of this holding and the opinion to the extent that it implies that under Texas law a person has control of non-owned premises merely because that person owns the adjacent property.

OPINION DELIVERED: December 4, 1997